Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85319690
LAW OFFICE ASSIGNED	LAW OFFICE 112
MARK SECTION (no change)	The state of the s
	THE CONSIDER ATION AND

REQUEST FOR RECONSIDERATION AND REQUEST TO SUSPEND PENDING OUTCOME OF PETITION TO CANCEL

This is in response to the Final Office Action dated February 11, 2012.

REMARKS

The Examiner has refused registration under Section 2(d) in light of U.S. Registration No. 3,922,100 for LTE (the "Registration"). The refusal is based on Classes 9 and 38 of the Registration.

On August 7, 2012, Applicant filed Cancellation Proceeding No. 92056002 with the Trademark Trial and Appeal Board seeking to cancel Classes 9 and 38 of the Registration.

Filing a petition to cancel is a proper response to the §2(d) refusal. See TMEP § 716.02(a):

"If the examining attorney refuses registration under §2(d) of the Trademark Act in view of the mark in a prior registration, the applicant may file a petition to cancel the registration under 15 U.S.C. §1064 and, within a proper response period, inform the examining attorney that the petition to cancel has been filed. This will constitute a proper response to the §2(d) refusal, and may be done by telephone, if there are no other outstanding issues that require a written response. The examining attorney will then suspend further action until the termination of the cancellation proceeding, if the application is otherwise in condition for approval or final refusal. The applicant should provide the number of the cancellation proceeding, if available; however, if the applicant does not provide the cancellation number, the examining attorney may ascertain it from USPTO records."

When a petition to cancel is filed after issuance of a final 2(d) refusal, the application should be

suspended. See TMEP § 716.06:

"If the examining attorney determines that action on an application should be suspended after issuance of a final refusal, the examining attorney must issue a suspension notice. This may occur, for example, when the applicant files a petition to cancel a cited registration..."

Accordingly, Applicant respectfully requests suspension of this application pending the outcome of the cancellation proceeding. Applicant respectfully maintains its previously submitted arguments with respect to the Section 2(e)(1) refusal.

Respectfully submitted,

/James F. Struthers/

James F. Struthers Attorney for Applicant

August 13, 2012 Richard Law Group, Inc. 8411 Preston Road, Suite 890 Dallas, Texas 75225 (214) 206-4300

SIGNATURE SECTION

SIGNATURE SECTION	
RESPONSE SIGNATURE	/James F. Struthers/
SIGNATORY'S NAME	James F. Struthers
SIGNATORY'S POSITION	Attorney of record, TX bar member
SIGNATORY'S PHONE NUMBER	214 206-4312
DATE SIGNED	08/13/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Aug 13 10:30:24 EDT 2012

FILING IN ORGANIZATION	
SUBMIT DATE	Mon Aug 13 10:30:24 EDT 2012
TEAS STAMP	USPTO/RFR-69.15.198.238-2 0120813103024314123-85319 690-490d8b4be8ea5359bb95c a1936bd09eee21-N/A-N/A-20 120813102752838833

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. 85319690 has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

REQUEST FOR RECONSIDERATION AND

REQUEST TO SUSPEND PENDING OUTCOME OF PETITION TO CANCEL

This is in response to the Final Office Action dated February 11, 2012.

REMARKS

The Examiner has refused registration under Section 2(d) in light of U.S. Registration No. 3,922,100 for LTE (the "Registration"). The refusal is based on Classes 9 and 38 of the Registration.

On August 7, 2012, Applicant filed Cancellation Proceeding No. 92056002 with the Trademark Trial and Appeal Board seeking to cancel Classes 9 and 38 of the Registration.

Filing a petition to cancel is a proper response to the §2(d) refusal. See TMEP § 716.02(a):

"If the examining attorney refuses registration under §2(d) of the Trademark Act in view of the mark in a prior registration, the applicant may file a petition to cancel the registration under 15 U.S.C. §1064 and, within a proper response period, inform the examining attorney that the petition to cancel has been filed. This will constitute a proper response to the §2(d) refusal, and may be done by telephone, if there are no other outstanding issues that require a written response. The examining attorney will then suspend further action until the termination of the cancellation proceeding, if the application is otherwise in condition for approval or final refusal. The applicant should provide the number of the cancellation proceeding, if available; however, if the applicant does not provide the cancellation number, the examining attorney may ascertain it from USPTO records."

When a petition to cancel is filed after issuance of a final 2(d) refusal, the application should be suspended. See TMEP § 716.06:

"If the examining attorney determines that action on an application should be suspended after issuance of a final refusal, the examining attorney must issue a suspension notice. This may occur, for example, when the applicant files a petition to cancel a cited registration..."

Accordingly, Applicant respectfully requests suspension of this application pending the outcome of the cancellation proceeding. Applicant respectfully maintains its previously submitted arguments with respect to the Section 2(e)(1) refusal.

Respectfully submitted,

/James F. Struthers/

James F. Struthers Attorney for Applicant

August 13, 2012 Richard Law Group, Inc. 8411 Preston Road, Suite 890 Dallas, Texas 75225 (214) 206-4300

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /James F. Struthers/ Date: 08/13/2012

Signatory's Name: James F. Struthers

Signatory's Position: Attorney of record, TX bar member

Signatory's Phone Number: 214 206-4312

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85319690

Internet Transmission Date: Mon Aug 13 10:30:24 EDT 2012 TEAS Stamp: USPTO/RFR-69.15.198.238-2012081310302431

4123-85319690-490d8b4be8ea5359bb95ca1936 bd09eee21-N/A-N/A-20120813102752838833